

PRESTON DUFAUCHARD
California Corporations Commissioner
ALAN S. WEINGER
Acting Deputy Commissioner
JOANNE J. ROSS (CA BAR NO. 202338)
Corporations Counsel
Department of Corporations
1515 K Street, Ste. 200
Sacramento, California 95814
Telephone: (916) 324-9687
Facsimile: (916) 445-6985
Attorneys for Complainant

BEFORE THE DEPARTMENT OF CORPORATIONS
OF THE STATE OF CALIFORNIA

In the Matter of the Accusation of THE) File No.: 413-0487
CALIFORNIA CORPORATIONS)
COMMISSIONER,)
) ACCUSATION
Complainant,)
)
v.)
)
Pinnacle Direct Funding Corporation,)
)
Respondent.)
)
)

The Complainant, California Corporations Commissioner ("Commissioner"), is informed and believes, and based upon such information and belief, alleges and charges Respondent as follows:

I.

Respondent Pinnacle Direct Funding Corporation, ("Pinnacle ") is a residential mortgage lender licensed by the Commissioner pursuant to the California Residential Mortgage Lending Act (California Financial Code, § 50000 *et seq.*) ("CRMLA"). Pinnacle has its principal place of business located at 1500 Lee Road, Suite 200, Orlando, Florida 32810.

II.

Pursuant to California Financial Code sections 50307 and 50401 and California Code of

1 Regulations, title 10, section 1950.314.8, all licensees under the CRMLA are required to file the
2 following annual reports with the Commissioner: (1) Report of Principal Amount of Loans and
3 Aggregate Amount of Loans Serviced ("Activity Report"); (2) Report on Non-traditional, Adjustable
4 Rate and Mortgage Loan Products ("Non-traditional Report"); and (3) Non-traditional, Adjustable
5 Rate and Mortgage Loan Survey ("Survey"). The Activity Report, Non-traditional Report, and
6 Survey must be filed with the Commissioner on or before March 1st of each year for the preceding
7 twelve (12) month period ending December 31.

8 On or about February 1, 2008, an Activity Report form, Non-traditional Report form and
9 Survey were sent to all CRMLA licensees, including Pinnacle, with a notice stating that these reports
10 were due on or before March 1, 2008. The Commissioner assessed a penalty of one thousand dollars
11 (\$1,000.00), pursuant to California Financial Code section 50326, for the failure to submit these
12 reports on or about May 15, 2008. To date, Pinnacle has not submitted the Activity Report, the Non-
13 traditional Report or the Survey to the Commissioner or paid the assessed penalty.

14 III.

15 Pursuant to California Financial Code section 50200, all licensees under the CRMLA are
16 required to file audited financial statements ("Audited Report"), an Independent Auditor's Report on
17 Internal Controls ("Report on Internal Controls"), and its Uniform Single Attestation Program for
18 Mortgage Bankers ("USAP"), or its reconciliation of trust accounts, annually with the Commissioner.
19 Pinnacle was required to submit these reports for its fiscal year ending December 31, 2007 to the
20 Commissioner on or before April 15, 2008. Pinnacle did not file these reports.

21 On or about August 1, 2008, the Department assessed a penalty of one thousand dollars
22 (\$1,000.00) pursuant to California Financial Code section 50326 for failure to file these reports.
23 Pinnacle was notified that failure to pay the fine might result revocation of Pinnacle's license
24 pursuant to Financial Code section 50326 and 50327. To date, Pinnacle has yet to file these reports
25 or pay any of the assessed penalties.

26 IV.

27 On or about August 20, 2007, the Department received a Notice of Bond Cancellation from
28 Safeco Insurance Company of America that Pinnacle's bond would be cancelled within thirty (30)

1 days after receipt of the notice. Section 50205 of the California Financial Code requires all CRMLA
2 licensees to maintain a surety bond. On September 19, 2007, an Order to Discontinue Residential
3 Mortgage Lending and/or Servicing Activities Pursuant to Section 50319, California Financial Code
4 was issued. To date, Pinnacle has not reinstated or replaced the bond, and the order remains in effect.

5 **V.**

6 On or about September 4, 2007, Pinnacle notified the Department that it intended to surrender
7 its lending license. Section 50123 of the California Financial Code requires a plan of surrender to be
8 filed the Department, with specific information provided to the Department. On or about September
9 7, 2007, the Department sent a letter to Pinnacle that provided instructions for the information
10 necessary to complete surrender of Pinnacle's license. To date, Pinnacle has not submitted the
11 required information. Pursuant to section 50123 of the CRMLA, a license remains in effect until it
12 has been surrendered, suspended or revoked.

13 **VI.**

14 California Financial Code section 50327 provides in pertinent part:

15 (a) The commissioner may, after notice and a reasonable opportunity to
16 be heard, suspend or revoke any license if the commissioner finds that:
17 (1) the licensee has violated any provision of this division or any rule or
18 order of the commissioner thereunder; or (2) any fact or condition
19 exists that, if it had existed at the time of the original application for the
20 license, reasonably would have warranted the commissioner in refusing
21 to issue the license originally.

22 **VII.**

23 The Commissioner finds that, by reason of the foregoing, Pinnacle has violated California
24 Financial Code sections 50200, 50205, 50307, 50326, 50401 and California Code of Regulations,
25 title 10, section 1950.314.8, and based thereon, grounds exist to revoke Pinnacle's license as a
26 residential mortgage lender.

27 WHEREFORE, IT IS PRAYED that the residential mortgage lender license of Pinnacle
28 Direct Funding Corporation be revoked and, pursuant to Financial Code section 50311, Pinnacle
Direct Funding Corporation be given a transition period of sixty (60) days within which to complete
any loans for which it had prior commitments.

DATED: October 17, 2008
 Sacramento, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
Joanne Ross
Corporations Counsel